

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

FIRST-CLASS MAIL AND PERIODICALS
SERVICE STANDARD CHANGES, 2021

Docket No. N2021-1

**MOTION OF THE UNITED STATES POSTAL SERVICE TO
BE EXCUSED FROM RESPONDING TO DOUGLAS F. CARLSON'S
INTERROGATORY DFC/USPS-T3-3
(May 6, 2021)**

Pursuant to 39 C.F.R. § 3020.105(b), the United States Postal Service ("Postal Service") hereby moves to be excused from responding to Douglas F. Carlson's Interrogatory identified below filed on May 3, 2021 on grounds that it (1) seeks irrelevant information and (2) would impose an undue burden on the Postal Service. The subject interrogatory from which the Postal Service seeks to be excused is set forth below.

[DCF/USPS-T3-3] Please provide quarterly service performance scores for the nation, as distinct from individual districts, from 1998 to the present.

1. The Interrogatory Seeks Information Not Relevant to the Postal Service's Request for an Advisory Opinion

The request for an advisory opinion in this case is focused and limited in scope. In this docket, the Postal Service has requested an advisory opinion from the Commission on planned nationwide service changes that affect First-Class Mail letters and flats and, consequently, Periodicals and non-package international mail (the "Initiative"). As discussed below, the information requested by Mr. Carlson in DFC/USPS-T3-3 is neither relevant to the Postal Service's request nor to a determination as to whether the Initiative complies with Title 39, as required by 39 U.S.C. § 3661.

In this proceeding, the Commission is required to evaluate whether the service and operational changes to First-Class Mail letters and flats (as well as Periodicals and non-package international mail) proposed in the Initiative conform to applicable policies in Title 39. See 39 C.F.R. § 3020.113(a) (Postal Service shall include “such information and data and such statements of reasons and basis as are necessary and appropriate to fully inform the Commission and interested persons of the nature, scope, significance, and impact of the proposed change in the nature of postal services and to show that the change in the nature of postal services is in accordance with and conforms to the policies established under title 39, United States Code.”); see also *id.* at § 3020.113(b) (setting forth the specific information that the Postal Service should include in its request). The information Mr. Carlson requests in this interrogator—twenty-three years of nationwide quarterly service performance scores—is irrelevant to evaluate either the Postal Service’s reasons and basis for the Initiative or whether the Postal Service satisfied the requirements articulated in 39 C.F.R. § 3020.113.

Specifically, the nationwide quarterly service performance scores from 1998 to present are not necessary to inform the Commission and the parties of the nature, scope, significance, and impact of the Initiative on the nature of postal services. Further, the requested information will not further inform the Commission’s opinion in this docket, and, accordingly, does not seek information on facts that “flow from the Initiative.” See **Station and Branch Optimization and Consolidation Initiative, 2009 (“SBOC”)**, Docket No. N2009-1, Presiding Officer’s Ruling (“POR”) No. 2, at 2-3 (Sept. 1, 2009) (noting that an interrogatory that seeks information about application program that is not caused by or does not flow from the Initiative under consideration in the docket is not reasonably

calculated to lead to the discovery of admissible evidence relevant to this docket); see *also* SBOC, Docket No. N2009-1, POR No. 7, at 2 (Sept. 18, 2009) (denying motion to compel production of information on reduction of hours for programs that are “not caused by or flow from the Initiative” as such information “will add little to the record.”).

The interrogatory is not “reasonably calculated to lead to the discovery of admissible evidence” as required by Commission Rule 3020.116(a), and is inconsistent with the goals of a Section 3661 proceeding because it seeks decades of historical data. See SBOC Docket No. N2009-1, POR No. 4, at 3 (September 15, 2009) In a past proceeding, the Commission’s Presiding Officer ruled that the American Postal Workers Union’s (APWU) request for discontinuance review studies for several years between FY2005 and FY2008 was “historical in nature . . . and has no direct bearing on the initiative” in question before the Commission. *Id.* Similarly, a request for all such studies resulting in consolidations was denied, as the Presiding Officer noted that this request “only seeks annual totals, and without any context, their value is limited.” *Id.* at 4. Furthermore, in an earlier proceeding, the Commission’s Presiding Officer opined that a request for all changes in service standards extending back fifteen years “would shed no light on the merits of the proposed changes the Service proposes in this proceeding” and described documenting 15 years of prior consolidation activity as “excessive.” Evolutionary Network Development Service Change, Docket No. N2006-1, POR No. 5, at 2, 5 (March 31, 2006).

Here, the decades of service performance data are irrelevant and excessive. Since 1998, the Postal Service has endured the Great Recession and the explosion of electronic communication. Data from decades ago, even the previous century, have no relevance

to the Postal Service's request nor to a determination as to whether the Initiative complies with Title 39.

This interrogatory represents nothing more than Mr. Carlson attempting to obtain virtually unlimited discovery. Approval of this approach would significantly expand the scope of this docket and undermine the Postal Service's purpose in submitting a detailed request and testimony, and the need for focused analysis in this Section 3661 proceeding.

2. Producing the Information Sought Would Create an Undue Burden on the Postal Service

In considering production of information, “[t]he Commission also considers the burden of producing this data in relation to its possible value in developing further evidence.” Postal Rate and Fee Changes, Docket No. R2005-1, POR No. 37, at 2 (June 29, 2005); *see also Burka v. U.S. Dep’t of Health & Human Servs.*, 87 F.3d 508, 517 (D.C. Cir. 1996) (factors to consider include “the requestor’s need for the information from this particular source, its relevance to the litigation at hand, the burden of producing the sought-after material, and the harm which disclosure would cause to the party seeking to protect the information”). The Commission “should balance the benefit, or lack thereof, that the requested information could bring to bear against the burden imposed by production of the requested information.” SBOC, Docket No. N2009-1, POR No. 4, at 3 (Sept. 15, 2009).

The burden of producing twenty-three years of service performance data is significant. And because this decades-old information is not central to this docket, the burden the Postal Service would be forced to incur to respond is well in excess of the value that the information sought would bring to this proceeding. *See e.g., Complaint of GameFly, Inc.*, Docket No. C2009-1, POR No. 5, at 8 (Sept. 28, 2009) (sustaining Postal

Service objection to production because request would require the review of “potentially thousands of extraneous emails”); *id.* at 8 (rejecting request to compel production of all documents, studies, analyses, workpapers, memoranda and similar documents because the request created a burden that appeared “excessive”); SBOC, Docket No. N2009-1, POR No. 4 (Sept. 15, 2009), at 3 (denying motion to compel where the value of requested information, balanced against the effort to locate and determine it, was insignificant). Furthermore, several years of the information sought by Mr. Carlson is publicly available, including on the Postal Service’s website (<https://about.usps.com/what/performance/service-performance/>), in quarterly filings with the Commission (<https://www.prc.gov/dockets/quarterly-performance>), in the Postal Service’s Annual Compliance Reports, and in the Commission’s Annual Compliance Determinations. It is estimated that determining the location and method of pulling data from that many years in the past, in addition to pulling, compiling, and quality checking the data would take approximately twenty hours to complete.

Accordingly, it is not clear what purpose would be served by imposing on the Postal Service the burden of production of this information in a time-limited proceeding when Mr. Carlson can locate abundant publicly available data on the topic.

Conclusion

For the reasons stated above, the Postal Service requests that it be excused from responding to the above-referenced interrogatory.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys,

Anthony Alverno
Chief Counsel, Global Business & Service
Development

Ian Brown
Peter J. McNulty
B.J. Meadows, III
Attorneys

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1135
(202) 268-6706
ian.d.brown@usps.gov
May 6, 2021